IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WP(C).No. 26378 of 2007(M)

ARC.990/2000 of MUNSIFF COURT,CHAVAKKAD

.....

PETITIONER:

KELLAPPAN, AGED 60 YEARS,
S/O KUTTAN, POVIL HOUSE,
VENMENAD DESOM, PAVARATTY VILLAGE,
CHAVAKKAD TALUK.

BY ADV. SRI.RAJIT
SRI.RANJIT BABU

RESPONDENTS:

---

1. SECRETARY,
PAVARATTY SERVICE CO-OPERATIVE BANK LTD. NO.3918,
P.O.PAVARATTY.

2. SERVICE CO-OPERATIVE BANK,
PAVARATTY, REP. BY ITS SECRETARY.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

==========

W.P.(C) No.26378 OF 2007

==========

Dated this the 5th day of September 2007

JUDGMENT

This writ petition is filed for a direction to the Munsiff's Court, Chavakkad to permit the petitioner to pay the amount due to the respondent bank in instalments and to extend the benefit of the one time settlement schedule. In execution of the decree the property has been sold, sale confirmed, sale certificate issued and the property is posted for delivery. The writ petitioner has not chosen to file any application under Order XXI Rule 89 C.P.C. or under Order XXI Rule 90 C.P.C. and had allowed everything to become final and at the last stage had come before this court praying for indulgence and mercy. Legally nothing can be done in these type of cases. But the decree holder is a service co-operative bank and it will be more interested in getting the amount rather than the property.

Therefore, I give an opportunity to the petitioner to approach the bank for showing mercy and if the bank feels that it can be satisfied with the amount due to it including the discount and allowances provided under Order XXI Rule 89 C.P.C., the bank may consider the possibility of

reconveying the property to the petitioner at his expenses provided the entire decree amount and the expenses incurred are offered by the petitioner and accepted by the bank. In order to facilitate the petitioner to move for a sympathetic consideration and settlement, I direct the court below to defer the delivery by 5 weeks.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-